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OFFICE OF PETITIONS

In re Application of
Kevin B. Kline
Application No. 10/783,502
Filed: February 20, 2004
Attorney Docket No. P00799-US-01
(20680.0001)

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:
: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(b)
:

This decision is in response to the request for reconsideration filed August 29, 2005, under 37 CFR 1.47(b) and in response to the petition under 37 CFR 1.137(b) filed on even date.

The petition under 37 CFR 1.47(b) is **GRANTED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application was filed February 20, 2004 without an executed oath or declaration. Accordingly, on May 13, 2004, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. A petition under 37 CFR 1.47 was filed July 13, 2004 accompanied by the late filing surcharge and was dismissed in a decision mailed April 6, 2005 because an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 had not been provided. The decision set a two month period for response. No response to the decision having been timely filed, the application became abandoned June 7, 2005. A Notice of Abandonment was mailed July 15, 2005. In the interim however, a request for reconsideration was filed on July 14, 2005 but could not receive reconsideration until a grantable petition under 37 CFR 1.137 had been filed.

In response, the present petition was filed. Applicant seeks status under 37 CFR 1.47(b) because it is asserted that 1) the instant application is the nationalization of PCT/US/27056 filed August 23, 2002, 2) the instant application is identical to the PCT application, 3) the inventor refused to sign the request to allow the applicant to proceed without his signature under PCT Rule 4.15(b) and in accordance with 37 CFR 1.425 and 4) by decision dated September 5, 2003, the Petition under 37 CFR 1.425 filed June 25, 2003 was granted.

A grantable petition under 37 CFR 1.47(b) requires:

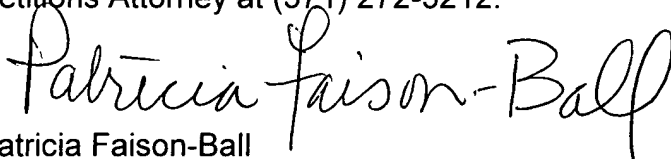
- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest, and
- (6) proof of irreparable damage.

An oath or declaration executed by Robert B. Eveleigh, President of Lawler Manufacturing Company, the assignee, for the assignee and on behalf of the non-signing inventor has been presented. All requirements under 37 CFR 1.47(b) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

In view of the above and the requirements for reviving the application having therefore been met, the petition under 37 CFR 1.137(b) is also granted.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions